

# **Compilation of presentations to Domestic Relations Committee on mediation/facilitation in family law cases**

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- Magistrate Thomas Felts discussed the Allen County Family Relations Alternative Dispute Resolution Program. This program requires an additional \$20.00 court cost to domestic relations filings. It permits the circuit court to assign cases for mediation upon the discretion of the court. Superior court has the same discretion and has also used pilot program monies to train family law mediators. The committee agreed it would not recommend statewide implementation because of the funding requirement that would add costs to the dissolution filing fees. However, the committee determined the project has merit and could form the bases of a statewide program if alternative funding sources were available. The committee determined that exploration of other funding sources was warranted and directed the chair to report its recommendation to the Board of Directors of the Judicial Conference of Indiana.
- Martha Wishmeyer, part-time attorney, Paternity Facilitation Project, Porter County Family Court, explained her program to the members of the committee. She explained that pro se litigants are given help in the paternity court with visitation issues. One full-time in mornings and 3-4 law students are used which she supervises. She distributed a form used by the program to the committee. It is funded in part with monies from the Supreme Court Family Court Pilot Project. Approx: \$10,000 annually; \$4,000 start-up
- Allison Cox, Family Court Project, Highly Conflicting Divorce Mediation, Porter County Family Court, explained her project was funded in connection with the Supreme Court Family Court Project. Monies from the Family Court Project are used to send attorneys to 40 hours of mediation training in exchange for mediation in high conflict cases at \$95.00 an hour. The Family Court Project pays for a case manager that assigns cases to a mediator and links services to the family. Approx: Training for 5 mediators, must "give back" 8 hours of mediation at \$95.00 an hour.
- Diane Elliott and Victoria Hanson, Marion County IV-D Program, explained their Access and Visitation Program. She said they are social workers and they are assigned to the IV-D and Paternity Court. They served 750 families and conducted 300 "brief sessions" for families too. They work on visitation issues during a support case, and prepare parenting plans for the prosecutor and court review and approval. A 2, 6, and 12 week telephone call is conducted to see how the agreements are working, and adjustments made if necessary. They distributed materials to the committee including intake, access and closeout forms. Their total grant is \$100,000 annually.

- Judge LaViolette and Timothy Bookwalter reviewed the Putnam County Facilitation Project. This program uses lawyers trained in mediation for cases referred for evaluation by an intake officer paid for with Court Improvement Project monies, in dissolution, CHINS, Termination of Parental Rights, and small claims cases. CIP funds are used to pay facilitators \$100.00 an hour. Mr. Bookwalter distributed an example fact situation to illustrate mediation/facilitation techniques. Intake person, now an attorney, is used to conduct intake for all cases assigned to intake. 30 cases conducted in the past 5 months. Approx. cost: \$37,000 Court Improvement Project Grant pays for administrative position, 2 part-time facilitators at \$100.00 an hour.
  
- Francie Hill presented an overview of the Supreme Court Family Court Project. She said the main focus of the project was a one judge, one family model or the family court coordination model. Family courts monitor families to varying degrees. She stated the following components of family courts: repeat litigation involving the same person, pro se litigants, “I know it when I see it, high conflict cases,” domestic violence, substance and/or alcohol abuse, persons with cases in many type of court jurisdictions, criminal cases, person with children. She reported the key to the project is improved management for family law cases. Three pilot projects funded through Division of State Court Administration, Prof. Francie Hill, Bloomington, in-state consultant; Jeff Kuhn, national consultant conducted evaluation in first year of project. Project beginning Phase II.
  
- Kathleen Rusher, Facilitator, Allen County Model Court Project, Superior Court, Family Relations Division, explained her program to the members of the committee. She distributed a folder including materials about her project. She meets with CHINS and Termination families one hour in advance of the initial hearing and includes attorneys, support persons from the family, OFC and others in the room together. She explains their rights, and they prepare a plan fix the problems that engendered the court involvement. This plan is then taken to the courtroom with all parties present for approval. The staff budget is \$100,000 including 1 full-time facilitator, one part-time facilitator, and a CASA director. 176 families completed the process in one year.
  
- Jan Davidson, Marion County Domestic Relations Bureau explained her program to the members of the committee. She distributed materials about her program and the custody evaluations conducted. She indicated they do a few mediations as referred by the courts each year and many custody evaluations. Their mediation sessions last about 1 ½ hours, their agreements can be reviewed by attorneys, all their mediators are master’s degree social workers, and they generate \$70,000 each year in sliding scale fees for a \$198,000 budget. Their staff includes 5 persons with master’s degrees and 2 support staff.
  
- Steve Spence, Marion County IV-D Program mediator, explained his mediation program to the members of the committee. He distributed materials to the committee, including a form mediation agreement. He receives referrals from the IV-D court in Marion County under contract. He said had 135 referrals for mediation in 1999, 165 in 2000, and 19 so far in 2001. He deals with visitation, custody, and paternity cases as well. They work on support issues

under the theory there is more support with increased visitation. The IV-D prosecutor only makes the referrals, but the court may refer if the prosecutor agrees. The charges \$400.00 per case, and \$30.00 for a no show. The typical mediation is 3-4 hours, concluding with a written mediation agreement. Over 80% of his IV-D mediations are paternity cases.

- Julia Orzeske, Executive Director, Indiana Commission for Continuing Legal Education explained the keep a list “on line” of 279 registered domestic relations mediators. She explained the resources for family mediation is less than civil mediation. She reviewed the mediation rules with the committee members and distributed materials about her program.

- Irene Spindler, Mediator, Allen County Circuit Court explained “transformational mediation” to the committee. She said it may be explained as follows: Disputes can be viewed not as problems, but as opportunities for moral growth and transformation. Growth occurs in 2 dimensions: (1) Strengthening self through realizing and strengthening one’s capacity for dealing with difficulties by engaging in conscious and deliberate reflection, choice and action and (2) reaching beyond the self to relate to others through realizing and strengthening one’s capacity and consideration for others especially those whose situation is different from one’s own. This model is to transform persons from fearful and self-centered to responsive and caring. In civil mediation, one tries to solve one problem at a time. Therapists are more comfortable with this transformational mediation technique. She distributed information about this technique first used with postal employees. She has completed 5-10 of these mediations a year, at \$100.00 per hour, taking 4-8 hours each. Magistrate Felts reported a control group study of mediator cases from 1999 is underway. He indicated that about 150 or so of these mediations have occurred in Allen County.

- Cynthia K. Booth, Executive Director, Child Advocates and Julie Petty, Permanency Mediator spoke next. Their mediation project is for CHINS cases that have been sent to Termination of Parental Rights, but have not been heard by the Termination court judge. Since most “settle” the day of trial, they decided to try the mediation approach to get to termination faster. She distributed forms used in this program. All parties volunteer to use this process. She received a grant of \$40,000 for the Julie’s salary, laptop and miscellaneous expenses for this new project. One mediation has been conducted by April 2001 for this new program. Julie Petty said it takes about 3 hours of preparation for one mediation.

- Francie Hill, Supreme Court Family Court Pilot Project distributed materials from the focus group evaluations of family court conducted by Mr. Jeff Kuhn in March. She found the following categories and comments from the focus groups: (1) safety issues; (2) legal concerns; (3) service issues; (4) case flow management; (5) need for more low cost mediation, screening to ensure the case is ripe for mediation and ADR; and (6) need for more judicial and attorney training on family dynamics and legal issues. Approximate evaluation cost: \$40,000

- Dr. Steve Ross distributed proposed guidelines for a standard custody evaluation for Indiana. He chairs a task force of the Indiana Psychological Association that sees the need for a standard evaluation because of increased complaints against child custody evaluators. He

distributed the American Psychological Association Guidelines, American Family and Conciliation Courts guidelines, and an article in this area. He wanted to know what information would be helpful to judges in these reports. The committee urged him to circulate this or a revised draft to the Family Law Section of the ISBA for comment, and other child psychologists. They agreed to distribute a final draft to all judges for comment.

- Judge Arrendondo gave a review of the development of the Lake County Domestic Relations Bureau. He said they handle supervised visitation, make referrals for custody evaluations, and they have begun a program to train attorneys as mediators in exchange for 3 pro bono mediations. He said they conducted mediation training for 5 days with a nationally recognized trainer for 20 persons for \$500.00 each in Lake County. This training will be made available again in October 2001.

- Judge Whitman gave a brief overview of the South Bend Domestic Relations Counseling Bureau. They complete custody evaluations and do supervised visitation.